

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/17/2021
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

RAFAEL CAJIGAS,

Defendant.
-----X

08 CR 391 (VM)

DECISION AND ORDER

VICTOR MARRERO, U.S.D.J.:

By letter dated September 8, 2020, defendant Rafael Cajigas ("Cajigas") moved for compassionate release under 18 U.S.C. § 3582(c)(1)(A). (Dkt. No. 41.) The Court denied the motion on November 11, 2020. United States v. Cajigas, No. 08 CR 391, 2020 WL 6625210 (S.D.N.Y. Nov. 11, 2020); see also Dkt. No. 42.

On April 5, 2021, Cajigas sent a letter to chambers seeking appointment of counsel to assist him in moving for reconsideration of the Court's previous order denying compassionate release. (See Dkt. No. 48.) The Court denied that request on April 12, 2021. United States v. Cajigas, No. 08 CR 391, 2021 WL 1392008 (S.D.N.Y. Apr. 12, 2021); see also Dkt. No. 49.

The Court received another letter from Cajigas on June 10, 2021. (See Dkt. No. 50.) That letter did not seek any particular form of relief, but reiterated certain arguments Cajigas had previously made (see Dkt. No. 48) regarding his

recent COVID-19 diagnosis and recovery, as well as other medical conditions from which he allegedly suffers. Insofar as that letter sought redress either in the form of compassionate release, appointment of counsel, or reconsideration, the requests were denied. (See Dkt. No. 51.)

Now before the Court is another letter from Cajigas dated June 3, 2021. (See "Letter," Dkt. No. 53.) In the Letter, Cajigas explicitly requests appointment of counsel to assist him in filing a compassionate release motion based on his recent COVID-19 diagnosis, his age, his ethnicity, his other medical issues,¹ his rehabilitation, and the failures and inability of FCI Schuylkill to treat him. The Court construes the Letter as a motion for reconsideration. Having reviewed the Letter and the attached medical records, which have been filed under seal, the Court is unpersuaded that the Letter brings any new argument or evidence that might alter its previous conclusions. Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995) (the standard for granting a motion to reconsider "is strict, and reconsideration will generally be denied unless the moving party can point to controlling

¹ The Court notes that while Cajigas represents that he has "kidney and liver problems, obesity, diabetes, a BMI of over 35, [and] glaucoma" (Letter at 1), these claims are not entirely supported by his medical records, which indicate that he does not have liver or kidney disease, or diabetes. Likewise, the highest temperature recorded on his medical records is 99.3 degrees Fahrenheit, not the 107.1 he alleges.

decisions or data that the court overlooked -- matters, in other words, that might reasonably be expected to alter the conclusion reached by the court").

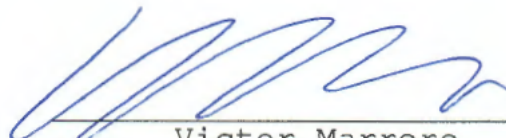
Accordingly, for the reasons set forth in this Court's previous orders (Dkt. Nos. 49, 51), the request for appointment of counsel is denied. See Hodge v. Police Officers, 802 F.2d 58, 60 (2d Cir. 1986) ("[C]ounsel is often unwarranted where the indigent's chances of success are extremely slim."). Accordingly, it is hereby

ORDERED that the motion so deemed by the Court as filed by defendant Rafael Cajigas (Dkt. No. 53) is **DENIED**.

The Clerk of Court is directed to mail a copy of this Order to Rafael Cajigas, Register Number 70495-054, Schuylkill FCI, Federal Correctional Institution, P.O. Box 759, Minersville, PA 17954-0759, and note service on the docket.

SO ORDERED.

Dated: New York, New York
17 June 2021



Victor Marrero
U.S.D.J.